

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MERLENE BACCHUS,

Plaintiff,
-against-

THE CITY OF NEW YORK, RENÉE
PEPPER and BOARD OF EDUCATION
EMPLOYEES LOCAL 372, DISTRICT
COUNCIL 37, AMERICAN FEDERATION
OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO,

Defendants.

Case No.: 12-cv- 1663 (PKC)(MDG)

**DECLARATION IN *OPPOSITION*
TO DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

I, VINCENT I. EKE-NWEKE, declare under penalty of perjury:

1. I am an attorney duly admitted to practice law before this Court and the Courts of the State of New York. My law office, Law Office of Vincent I. Eke-Nweke, P.C., represents the plaintiff in the above captioned action, as such, I am familiar with the facts and circumstances herein, and make this declaration based upon information and belief and upon personal knowledge.

2. This declaration is submitted in opposition to the motions for summary judgment served by Defendants New York City Department of Education ("DOE") and Renée Pepper, and by Board of Education Employees Local 372, District Council 37 and American Federation of State, County and Municipal Employees, AFL-CIO ("Unions").

3. Annexed hereto as Exhibit "1" is Plaintiff's Affidavit in opposition to defendants' motions for partial summary judgment.

4. Annexed hereto as Exhibit "2" are copies of some of certificates issued to plaintiff during her employment with the DOE numbered 001-009, produced in the course discovery in this action.

5. Annexed hereto as **Exhibit "3"** are copies of documents Bates numbered D 001400-001408, concerning the complaint of misconduct which Principal Angela Thompson, deceased, lodged against plaintiff on or about September 27, 2010 with The Special Commissioner of Investigation for the New York City School District.

6. Annexed hereto as **Exhibit "4"** are copies of relevant documents marked as exhibits from the deposition of plaintiff **Merlene Bacchus**, taken in this action on August 14, 2014.

7. Annexed hereto as **Exhibit "5"** is a copy of the DOE 2009-2010 School Year Calendar, obtained from the DOE website at www.schools.nyc.gov/calendar/archives.

8. Annexed hereto as **Exhibit "6"** is a copy of the DOE 2010-2011 School Year Calendar, obtained from the DOE at website at www.schools.nyc.gov/calendar/archives.

9. Annexed hereto as **Exhibit "7"** are copies of transcript pages of the deposition of **Pria Bala**, taken in this action on June 20, 2013.

10. Annexed hereto as **Exhibit "8"** are copies of transcript pages and relevant documents marked as exhibits from the deposition of **Barbara Levy**, taken in this action on June 27, 2013.

11. Annexed hereto as **Exhibit "9"** are two different copies of DOE Office of Special Investigations ("OSI") Corporate Punishment Intake Forms bates-numbered D 001483 and D 001484) both concerning the "fat boy" allegation and bearing (a) OSI Confirmation # 11-0677, Date Submitted February 3, 2011 at 1:58 p.m. and (b) OSI Confirmation # 11-0685, Date Submitted February 3, 2011 at 2:57 p.m., respectively.

12. Annexed hereto as **Exhibit "10"** is a certified copy of the authentic and true copies of meteorological records from National Climatic Data Center, Asheville, North Carolina, together with Site Specific Weather Analysis Report, prepared by James V. Bria III, a senior Forensic

Meteorologist with CompuWeather, which establishes that it did not rain during school hours on November 23, 2009.

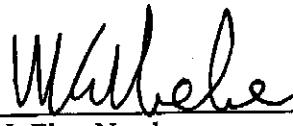
13. Annexed hereto collectively as **Exhibit "11"** are copies of the following emails from OSI to:

- a. Angela Thompson dated December 4, 2009 concerning OSI case #:09-4881;
- b. Angela Thompson dated December 4, 2009 concerning OSI case #:09-4887;
- c. Angela Thompson dated December 7, 2009 concerning OSI case #:09-4912/4913;
- d. Angela Thompson dated December 10, 2009 concerning OSI case #:09-5027;
- e. Angela Thompson, dated February 3, 2011 concerning OSI case #: 11-0677; and
- f. Renee Pepper dated February 3, 2011, concerning OSI case #:11-0685.

14. Annexed hereto as **Exhibit "12"** is a copy of the letter dated March 26, 2010, Carmen, Acosta, Regional Director of the New York State Division of Human Rights to the DOE's Office of the General Counsel.

13. Attached hereto as **Exhibit "13"** is a copy of the Proof of Service of the initial Complaint in this action upon the Corporation of the City of New York.

Dated: August 22, 2014
Brooklyn, New York



Vincent I. Eke-Nweke